

VWP Permit No. 98-1992

Effective Date:

Expiration Date:

VIRGINIA WATER PROTECTION PERMIT

ISSUED PURSUANT TO STATE WATER CONTROL LAW

AND SECTION 401 OF THE CLEAN WATER ACT

Based upon an examination of the information submitted by the owner and in compliance with Section 401 of the Clean Water Act as amended (33 USC 1251 et seq) and the State Water Control Law and regulations adopted pursuant thereto, the Department has determined that there is a reasonable assurance that the activity authorized by this permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards.

Permittee: City of Salem

Address: P. O. Box 869
Salem, Virginia 24153-0869

Activity Location: On the north bank of the Roanoke River, 1500 feet downstream of the bridge on Mill Lane in Salem, Virginia.

Activity Description: The construction and operation of a municipal water supply intake.

The authorized discharge shall be in accordance with this cover page, Part I - Special Conditions, Part II - General Conditions.

Director, Department of Environmental Quality

Date

SPECIAL CONDITIONS

1. This permit authorizes the discharge of fill material to the Roanoke River for the construction and operation of a municipal water supply intake as indicated in the Joint Permit Application received on December 2, 1998 and additional submittals received on February 8, 1999, May 10, 1999 and August 3, 1999 and deemed complete on August 3, 1999.
2. Any additional impacts to State waters associated with this project may require modification of this permit and mitigation.
3. This permit is valid for a maximum of 15 years from the date of issuance. Reissuance of the permit may be necessary if the withdrawal of water continues past the expiration date. The VWPP Regulation (9 VAC 25-210-80) requires submittal of an application for reissuance no less than 180 days prior to the expiration date of the permit.
4. The permittee shall employ measures to prevent spills of fuels or lubricants into State waters. The Department of Environmental Quality must be notified if spills do occur (540/562-6700).
5. All construction and installation associated with the project shall be accomplished in such a manner that construction material or waste material is not to be discharged into State waters.
6. Construction Conditions:
 - a. The coffer dam shall be constructed using non-erodible materials.
 - b. To the maximum extent practicable construction shall occur during low flow conditions.
 - c. Construction of the cofferdam shall block no more than 50% of the width of the river at any given time.
 - d. Excavated material shall be stockpiled in a manner that prevents reentry to the stream.
 - e. Strict erosion and sedimentation control measures shall be practiced during construction as described in the Virginia Erosion and Sedimentation Control Handbook, 1992, Virginia Department of Conservation and Recreation.
 - f. Original stream bed and stream bank contours shall be restored and barren areas revegetated at the end of construction.

7. The maximum daily withdrawal from the Roanoke River shall not exceed 8.0 million gallons per day.
8. To prevent the impingement and entrainment of fish eggs, larvae and other aquatic life, the intake screens shall be designed so that screen openings are not larger than three millimeter in width and screen face intake velocities are not faster than 0.25 feet per second.
9. The permittee shall develop a monitoring plan within 6 months of permit issuance to monitor the impingement and entrainment of fish eggs, larvae and other aquatic life. The monitoring plan shall be submitted to the Department of Game and Inland Fisheries for comment.
10. The permittee shall prepare an annual report to demonstrate compliance with special conditions 7. The report shall contain the following information: for each day, the amount of water withdrawn. The report shall be sent to the Department of Environmental Quality, Office of Water Permit Programs, P. O. Box 10009, Richmond, Virginia 23240-1009. The report shall reference the permit number and shall be due by January 31st for the previous calendar year.
11. This permit may be reopened to require a retrofitted screen intake with different intake openings and intake velocities if the permittee fails to provide an adequate monitoring plan or if the results of the monitoring indicate unacceptable levels of impingement and entrainment of fish eggs, larvae and other aquatic life.
12. No instream work will be conducted from March 15 through June 30 of any year.

PART II - GENERAL CONDITIONS

A. Duty to Comply

The permittee shall comply with all conditions of the permit. Nothing in this permit shall be construed to relieve the permittee of the duty to comply with all applicable Federal and State statutes, regulations and toxic standards and prohibitions. Any permit non-compliance is a violation of the Clean Water Act and State Water Control Law, and is grounds for enforcement action, permit termination, revocation, modification, or denial of a permit renewal application.

B. Mitigation Requirements

The permittee shall take all reasonable steps to:

1. Avoid all adverse environmental impact which could result from the activity;
2. Where avoidance is impractical, minimize the adverse environmental impact; and
3. Where impacts cannot be avoided, provide mitigation of the adverse impact on an in kind basis.

C. Reopener

This permit may be reopened to modify the conditions of the permit to meet new regulatory standards duly adopted by the Board. Causes for reopening permits include, but are not limited to:

1. When State law prohibits conditions in a permit which are more stringent than an applicable effluent limitation guideline;
2. When subsequently promulgated effluent guidelines are modified, and are based on best conventional pollutant control technology; or
3. When the circumstances on which the previous permit was based have materially and substantially changed, or special studies conducted by the Department or the permittee show material and substantial change since the time the permit was issued and thereby constitute cause for permit modification or revocation and reissuance.

D. Change in Management of Pollutants

All discharges and other activities authorized by this permit shall be made in accordance with the terms and conditions of this permit. The permittee shall submit a new application 180 days prior to any proposed modification to their activity which will:

1. Result in a significantly new or substantially increased discharge of dredged or fill material, or a significant change in the nature of the pollutants; or
2. Violate or lead to the violation of the terms and conditions of the permit or the Water Quality Standards of the Commonwealth.

E. Duty to Halt or to Reduce Activity

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

F. Compliance with State and Federal Law

Compliance with this permit constitutes compliance with the Virginia Water Protection Permit requirements of the State Water Control Law. Nothing in this permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other State law or regulation or under the authority preserved by Section 510 of the Clean Water Act.

G. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal property rights, nor any infringement of federal, state or local laws or regulations.

H. Severability

The provisions of this permit are severable.

I. Right of Entry

The permittee shall allow authorized state and federal representatives, upon the presentation of credentials, at reasonable times and under reasonable circumstances:

1. To enter the permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the permit conditions;
2. To inspect any facilities, operations or practices (including monitoring and control equipment) regulated or required under the permit;
3. To sample or monitor any substance, parameter or activity for the purpose of assuring compliance with the conditions of the permit or as otherwise authorized by law.

For the purpose of this section, the time for inspection shall be deemed reasonable during regular business hours. Nothing contained herein shall make an inspection time unreasonable during an emergency.

J. Transferability of Permits

This permit may be transferred to another person by a permittee if:

1. The current permittee notifies the Department of Environmental Quality 30 days prior to the proposed transfer of the title to the facility or property;
2. The notice of the proposed transfer includes a written agreement between the existing and proposed new permittee containing a specific date of transfer of permit responsibility, coverage and liability between them; and
3. The Department of Environmental Quality does not within the 30 day time period notify the existing permittee of the State Water Control Board's intent to modify or revoke and reissue the permit.

Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.

K. Permit Modification

The permittee shall notify the Department of Environmental Quality of any modification of this activity and shall demonstrate in a written statement to the Department that said modification will not violate any conditions of this permit. If such demonstration cannot be made, the permittee shall apply for a modification of this permit. This permit may be modified when any of the following developments occur:

1. When additions or alterations have been made to the affected facility or activity which require the application of permit conditions that differ from those of the existing permit or are absent from it;
2. When new information becomes available about the operation or discharge covered by the permit which was not available at permit issuance and would have justified the application of different permit conditions at the time of permit issuance;
3. When a change is made in the promulgated standards or regulations on which the permit was based;
4. When it becomes necessary to change final dates in schedules due to circumstances over which the permittee has little or no control such as acts of God, materials shortages, etc. However, in no case may a compliance schedule be modified to extend beyond any applicable statutory deadline of the Clean Water Act;
5. When an effluent standard or prohibition for a toxic pollutant must be incorporated in the permit in accordance with provisions of Section 307(a) of the Clean Water Act;
6. When changes occur which are subject to "reopener clauses" in the permit;
7. When the Department of Environmental Quality determines that minimum instream flow levels resulting from the permittee's withdrawal of water are detrimental to the instream beneficial use, the withdrawal of water should be subject to further net limitations or when an area is declared a Surface Water Management Area pursuant to State Water Control Law Sections 62.1-242 through 253, during the term of the permit;

8. When the level of discharge of a pollutant not limited in the permit exceeds the level which can be achieved by available methodology for controlling such discharges;
9. When the permittee begins or expects to begin to cause the discharge of any toxic pollutant not reported in the application; or
10. When other states were not notified of the change in the permit and their waters may be affected by the discharge.

L. Permit Termination

This permit, after public notice and opportunity for a hearing, is subject to termination. Causes for termination are as follows:

1. Noncompliance by the permittee with any condition of the permit;
2. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;
3. The permittee's violation of a special or judicial order;
4. A determination that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by permit modification or termination; or
5. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge of dredged and fill material controlled by the permit.

M. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

N. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act or Sections 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

O. Unauthorized Discharge of Pollutants

Except in compliance with this permit, it shall be unlawful for the permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances, or,
2. Otherwise alter the physical, chemical, or biological properties of such state surface waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.